

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

JAMES DERRICK O'NEAL,	:	CASE NO. 1:02CV 0357
Petitioner,	:	
v.	:	District Judge Sandra S. Beckwith
	:	Magistrate Judge Michael R. Merz
MARGARET BAGLEY, Warden	:	<u>NOTICE OF FILING APPEAL OF</u>
	:	<u>STATE COURT ENTRIES</u>
Respondent.	:	<u>DISMISSING SUCCESSIVE PETITION</u>
	:	<u>FILED PURSUANT TO ATKINS v.</u>
	:	<u>VIRGINIA AND ENTRY OVERRULING</u>
	:	<u>MOTION FOR FUNDING MENTAL</u>
	:	<u>RETARDATION EXPERT AND</u>
	:	<u>DISCOVERY</u>

Now comes the Petitioner, James Derek O'Neal, by and through counsel, and hereby notifies the Court of the Petitioner's appeal to the Court of Appeals of Hamilton County, Ohio of the decisions of the Hamilton County Common Pleas Court dismissing the successive petition filed pursuant to Atkins v. Virginia and the motion for funding mental retardation expert and discovery. A copy of the Notice of Appeal is attached hereto as Exhibit A.

Respectfully submitted,

/s/ John J. Gideon
JOHN J. GIDEON (0008151)
(Trial Attorney)
1093 South Fourth Street
Columbus, Ohio 43206-2621
Phone: (614) 444-9906
Facsimile: (614) 444-1885

/s/ Michael W. Krumholtz
Michael W. Krumholtz, Attorney
Registration No. 0009099
BIESER, GREER & LANDIS LLP
400 National City Center
6 North Main Street
Dayton, Ohio 45402-1908
Telephone: (937) 223-3277

ATTORNEYS FOR PETITIONER

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing was mailed to Stephen E. Maher, Assistant Attorney General, Capital Crimes Section, 30 East Broad Street. 23rd Floor, Columbus, Ohio 43215-3428, by regular U.S. Mail on this 20th day of May, 2004.

/s/ Michael W. Krumholtz
Counsel for James Derrick O'Neal

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